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4 pages with this one including page 7 of Patent with Claims

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August 28, 2008

Response concerning application nr 09/936,793 from 08/06/2008 (Mr. Roy Teller).

Dear Mr. Teller,

My application nr 09/936, 793 concerns "Protein modified by xanthurenic acid" this short title was proposed by PCT office instead of the original title Fr 99 03791 from March 23, 1999

"Preparation of drugs on the basis of immune response of proteins modified by xanthurenic acid".

The claims concern clearly an induction of the immune response; otherwise antibody production, otherwise utilization the xanthurenic acid-modified protein, peptide etc., which are antigenic (equivalent statements).

The claims were changed according to the examiner suggestion (copy of the claims page 3 of this fax).

My patent application concerns the antibody production against the protein modified by xanthurenic acid. My patent concerns only the xanthurenic acid bounded covalently to the proteins, or peptides (not the non-covalent conjugate described by Kobayashi et al., but the covalent conjugates.) Only the covalently modified proteins, are covered by the patent, because only the covalently modified proteins can be used to induce an immune response, otherwise be applied for antibody production against the modified proteins (Claims 1).

Xanthurenic acid, attaches non-covalently to proteins described by Kobayashi, can not induce an antibody.

This patent and my publication, Malina, BBRC, 1999, vol. 265, no.2, pp 600-605, is the first art.

This was very correctly referenced by Supervisory Patent Examiner, Cecilia J Tsang at 8/09/06.

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I have explained, in my response for the review of Cecilia J Tsang, that my application of that patent in France at March 23, 1999 preceded my publication.

Then I have a priority and right to the patent.

The conclusions presented by examiners Andrew Kosar on 9/12/07 and by Christopher Tate on 7/24/08 concerns the non-covalent interactions described by Kobayashi et al., and patented recently in other USA patents on xanthurenic acid.

My patent is not based on my ability of the persuasion of the examiners, but on the document: I have first made the patent application, and the publication after this application, concerning an antibody preparation by using the proteins modified covalently by xanthurenic acid.

Kobayashi et al. did not describe a covalent conjugate with xanthurenic acid, and did not make a proof, or even a statement about the covalent binding, but only described the non-covalent conjugates.

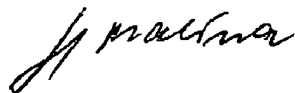
The statement of Mr C. R. Tate "Xanthurenic acid is a natural metabolite circulating in the body and would necessarily react with cellular/tissue proteins" is wrong.

We have the hundreds small molecules in our body and we could not live if it would be a true.

Conclusion:

Kobayashi et al. definitely did not describe the covalently modified proteins (the covalent conjugates), and did not inject them into a mammal to produce an antibody.

All claims are correct, innovative and it was not any precedent art concerning this method.



Halina Malina Ph.D.

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Page 4

Claims corrected according to the examiner suggestion- page 7 of the patent.

Please correct if possible the
errors:

Page 2 line 25

"per os way"- should be- "per os"

Page 5 line 3

a buffer phosphates (PBS) of 7,4 should be "a phosphate buffer pH 7.4"

Page 6 line 12

"A immunotherapy" should be "an immunotherapy"

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